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## **ENVIRONMENTAL QUALITY SERVICE COUNCIL**

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Authority: P.L.248-1996 (SEA 138)

**NOTE: The full Environmental Quality Service Council  
has not yet voted on the content of this report**

September 10, 1998  
Recommendation from EQSC Triennial Review Subcommittee: Set 1  
Senator Beverly J. Gard, Chairman

Through three subcommittee hearings and written suggestions, the Triennial Review Subcommittee has surfaced seven policy issues which are both a major concern of many parties and are worthy of consideration by the General Assembly. Below is the first set containing three of the recommendations of the subcommittee. The subcommittee recommends that the Environmental Quality Service Council formally adopt these as its findings and recommendations. These recommendations are not necessarily the highest priority recommendations of the subcommittee but simply the three that the subcommittee considers presentable at this time. The other recommendations will be brought to the EQSC as they are finalized.

**A. The state must develop an adequate surface water quality data base to make wise surface water policy decisions.**

Data on ambient surface water quality is essential for the implementation of many state programs related to water quality protection, as well as for future policy making on water quality issues. The data are now inadequate for efficient and effective surface water quality protection in Indiana.

Scientific study is needed to understand which uses of various portions of various state water bodies are technically possible. Study is needed to know where the waters are not meeting the quality to support those uses. It is needed to find the reasons for the water quality problems. It is needed to determine the real toxicity of various key parameters in various Indiana waters. Some particular data needs include identification of waters with impaired water quality under Section 303(d) of the Clean Water Act, the development of total maximum daily loads for impaired waters, and implementation of antidegradation policy.

The state generally does not possess adequate water quality data to enable effective implementation of these programs. Thus, it is necessary for the state to develop and implement a strategy for acquisition of a sound water quality data base. This must be phased on the basis of various state watersheds.

**The General Assembly should adopt legislation to establish a broad-based task force to recommend by November 1, 1999, a comprehensive state surface water quality database collection strategy and recommend adequate level of funding and technically qualified staff to implement the strategy.**

**B. The state must create statutory authority to issue NPDES permits with both dry weather and wet weather limits.**

Currently NPDES effluent limits that are derived from water quality standards for aquatic life protection are based on the lowest seven day flow in a 10 year period. For normal stream flows, this policy means the concentrations in the streams are well below the concentration of the quality standards. The aquatic life is very protected.

Presently, combined storm and sanitary sewers in older Indiana cities and towns makes a major contribution to water quality challenges during storms. Unfortunately, the current IDEM permit requirements discourages maximizing secondary treatment for heavy metals, viruses and bacteria treatment during these special times. Policy should be established to (1) allow maximized use of secondary treatment during wet weather and (2) have design criteria in place so municipalities will have clear and achievable direction to reduce untreated storm-related discharges.

In addition, the present IDEM combined sewer overflow strategy requires total "elimination" of all overflows at all times. Because this is infeasible, immunity is state law should be granted for especially high flows when an approved system is in place to significantly reduce the discharge.

**The General Assembly should provide IDEM clear legislative authority to issue NPDES permits with different effluent limits for wet weather conditions than for dry weather conditions. Authority is particularly needed when (1) the wet weather directly causes an increase in effluent flow (such as with a combined sewer system) and (2) the wet weather limitations would allow a greater volume of wastewater to be treated and would result in a net improvement in water quality in the receiving stream.**

**The General Assembly should establish authority for the Water Pollution Control Board to establish a rainfall control design criteria for a municipal sewage collection and treatment system to significantly reduce discharge to waters of the state.**

**C. State must create a coherent wetland policy.**

Wetlands, in their many different types and with different natural functions, serve as a valuable natural resource. The Triennial Review rulemaking is proposing to change the authority of IDEM regarding the protection of wetlands. Currently IDEM has authority to evaluate and certify for the Corps of Engineers' 404 permit for dredged or fill material project does not impact state water quality standards. The intent is that a project which results in an impaired use of state waters should not be granted the federal 404 permits.

The proposed change would grant the IDEM authority to determine whether the wetland itself should be saved under what circumstances and which type of land use change is worth wetland destruction. Because this expanded authority concerns land use and value of property in a highly politically contentious policy arena, it is important for the General Assembly first to establish the general principles of a state wetlands policy. Certain questions such as the following must be considered in developing those principles.

Which types of wetlands does the State of Indiana wish to protect? How many acres of these exist? What is the ultimate objective of a state wetland program: promotion of many isolated wetlands of different types or promotion of corridors of wetlands and large wetlands? What are the priorities for different types of wetlands and for different functions wetlands could serve in specific locations? How are conflicts among wetland functions to be resolved? Should the state have an independent policy from that of various federal agencies? Should the state assist with mitigation banking to achieve state and federal objectives? Which state agency should make the decision for the state to deny a particular land use in favor of the value of a particular wetland? What is the time frame that a state decision involving a wetland dredge and fill material permit must be made within?

**The General Assembly should establish a commission to answer the critical wetland policy questions and report back before December 1, 2001, with recommendations about an Indiana wetland policy. The Water Board shall not promulgate regulations changing the nature or extent of the IDEM authority over wetlands until the completion of the study.**